

PART 44

SUBCONTRACTING POLICIES AND PROCEDURES

44.202-2 Considerations.

<i>FAR as of FAC 90-25</i>	<i>FAR as revised</i>
<p>(a) The contracting officer responsible for consent shall review the request and supporting data and consider the following:</p> <p>* * * * *</p> <p>(4) Has the contractor complied with the prime contract requirements regarding labor surplus area or small business subcontracting, including, if applicable, its plan for subcontracting with small business concerns and small disadvantaged business concerns (see Part 19)?</p> <p>* * * * *</p> <p>(13) Is the proposed subcontractor on the Consolidated List of Debarred, Suspended, and Ineligible Contractors (see Subpart 9.4)?</p> <p>* * * * *</p>	<p>(a) The contracting officer responsible for consent shall review the request and supporting data and consider the following:</p> <p>* * * * *</p> <p>(4) Has the contractor complied with the prime contract requirements regarding small business subcontracting, including, if applicable, its plan for subcontracting with small, small disadvantaged and women-owned small business concerns (see Part 19)?</p> <p>* * * * * [FAC 90-32]</p> <p>(13) Is the proposed subcontractor on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs (see Subpart 9.4)?</p> <p>* * * * * [FAC 90-28]</p>

44.303 Extent of review.

<i>FAR as of FAC 90-25</i>	<i>FAR as revised</i>
<p>A CPSR requires a complete evaluation of the contractor's purchasing system. The considerations listed in 44.202-2 for consent evaluations of particular subcontracts shall also be used to evaluate the contractor's purchasing system, including the contractor's policies, procedures, and performance under that system. Special attention shall be given to—</p> <p>* * * * *</p> <p>(c) Methods of evaluating subcontractor responsibility, including the contractor's use of the list of Parties Excluded from Procurement Programs (see 9.404) and, if the contractor has subcontracts with parties on the list, the documentation, systems, and procedures the contractor has established to protect the Government's interests (see 9.405-2);</p> <p>* * * * *</p>	<p>A CPSR requires a complete evaluation of the contractor's purchasing system. The considerations listed in 44.202-2 for consent evaluations of particular subcontracts shall also be used to evaluate the contractor's purchasing system, including the contractor's policies, procedures, and performance under that system. Special attention shall be given to—</p> <p>* * * * *</p> <p>(c) Methods of evaluating subcontractor responsibility, including the contractor's use of the List of Parties Excluded from Federal Procurement and Nonprocurement Programs (see 9.404) and, if the contractor has subcontracts with parties on the list, the documentation, systems, and procedures the contractor has established to protect the Government's interests (see 9.405-2);</p> <p>* * * * * [FAC 90-28]</p>

(e) Policies and procedures pertaining to ~~labor surplus area concerns~~ and small business concerns, including small disadvantaged business concerns;

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(e) Policies and procedures pertaining to small business concerns, including small disadvantaged **and women-owned small** business concerns;

* * * * * [FAC 90-32]

SUBPART 44.4—SUBCONTRACTS FOR COMMERCIAL ITEMS AND COMMERCIAL COMPONENTS

[FAC 90-32]

44.400 Scope of Subpart.

This subpart prescribes the policies limiting the contract clauses a prime contractor may be required to apply to any subcontractors that are furnishing commercial items or commercial components in accordance with Section 8002(b)(2) (Pub. L. 103-355).

44.401 Applicability.

This subpart applies to all contracts and subcontracts. For the purpose of this subpart, the term "subcontract" has the same meaning as defined in Part 12.

44.402 Policy requirements.

(a) Contractors and subcontractors at all tiers shall, to the maximum extent practicable:

(1) Be required to incorporate commercial items or nondevelopmental items as components of items delivered to the Government; and

(2) Not be required to apply to any of its divisions, subsidiaries, affiliates, subcontractors or suppliers that are furnishing commercial items or commercial components any clause, except those—

(i) Required to implement provisions of law or executive orders applicable to subcontractors furnishing commercial items or commercial components; or

(ii) Determined to be consistent with customary commercial practice for the item being acquired.

(b) The clause at 52.244-6, Subcontracts for Commercial Items and Commercial Components, implements the policy in paragraph (a) of this section. Notwithstanding any other clause in the prime contract, only those clauses identified in the clause at 52.244-6 are required to be in subcontracts for commercial items or commercial components.

(c) Agencies may supplement the clause at 52.244-6 only as necessary to reflect agency unique statutes applicable to the acquisition of commercial items.

44.403 Contract clause.

The contracting officer shall insert the clause at 52.244-6, Subcontracts for Commercial Items and Commercial Components, in solicitations and contracts for supplies or services other than commercial items.

52.244-6 Subcontracts for Commercial Items and Commercial Components [FAC 90-32]

As prescribed in 44.403, insert the following clause:

**SUBCONTRACTS FOR COMMERCIAL ITEMS
AND COMMERCIAL COMPONENTS (OCT 1995)**

(a) Definition.

Commercial item, as used in this clause, has the meaning contained in the clause at 52.202-1, Definitions.

Subcontract, as used in this clause, includes a transfer of commercial items between divisions, subsidiaries, or affiliates of the Contractor or subcontractor at any tier.

(b) To the maximum extent practicable, the Contractor shall incorporate, and require its subcontractors at all tiers to incorporate, commercial items or nondevelopmental items as components of items to be supplied under this contract.

(c) Notwithstanding any other clause of this contract, the Contractor is not required to include any FAR provision or clause, other than those listed below to the extent they are applicable and as may be required to establish the reasonableness of prices under Part 15, in a subcontract at any tier for commercial items or commercial components:

(1) 52.222-26, Equal Opportunity (E.O. 11246);

(2) 52.222-35, Affirmative Action for Special Disabled and Vietnam Era Veterans (38 U.S.C. 2012(a));

(3) 52.222-36, Affirmative Action for Handicapped Workers (29 U.S.C. 793); and

(4) 52.247-64, Preference for Privately Owned U.S.-Flagged Commercial Vessels (46 U.S.C. 1241) (flow down not required for subcontracts awarded beginning May 1, 1996).

(d) The Contractor shall include the terms of this clause, including this paragraph (d), in subcontracts awarded under this contract.

(End of clause)